

about two weeks before 13/ (Tr. 176). White agreed to meet with Rabbitt. Fitzek left (Tr. 176, 177, 196).

White then contacted Dixon Peacock, the company's safety engineer. Peacock stated Rabbitt was going to accompany Vern Boston, the MSHA inspector (Tr. 177). White directed Peacock to see if Boston had invited Rabbitt to make the inspection with him (Tr. 177). Peacock reported back that Rabbitt had approached the MSHA inspector (Tr. 178). White objected because Rabbitt was supposed to be talking to him, not going on an inspection with the federal inspector (Tr. 178). Since becoming the mine manager on April 29, 1985 White had not known of any non-employee being admitted as a representative of miners under § 103(f) (Tr. 215, 217).

White, Rabbitt and Larsen met. Rabbitt inquired if there was a problem if he traveled with the inspector. White said he had not been notified and he also asked under what provisions of the contract was the inspection being made. Rabbitt replied he was entering under § 103(f) (Tr. 178-180). White then read the Act while conferring with Jordan, Peacock, Boston, Rabbitt and Larsen. White refused to let Rabbitt accompany the inspector. White stated that it was clear that the walkaround man is the employee authorized by the miners at the mine (Tr. 181, 182). Boston said he would write a citation and he gave White 10 minutes to reconsider. If the company continued its refusal he would then write an order (Tr. 182).

White then called his superior, Dave Lauriska, and discussed the details with him (Tr. 182, 183). Lauriska agreed with White's position. White said they were going to get an order on it, Lauriska said they didn't need another order and he instructed White to abate the citation if Rabbitt signed the waiver (Tr. 183).

The guard in the shack said Rabbitt hadn't signed the waiver form. On rechecking Lauriska said Rabbitt could not go underground without signing the form (Tr. 184). A waiver was brought in and discussed. Boston called his supervisor (Ponceroff). Boston said he would include the waiver matter on the previous citation (Tr. 186; Contestant Ex. 1). White relied on the citation in permitting Rabbitt to go underground. Upon White's demand, Rabbitt returned the unsigned waiver (Tr. 187).

At this point Inspector Boston and the walkaround party went underground (Tr. 187).

At about 2:30 p.m., when the group came out of the mine, there was a further discussion about the walkaround citation as it related to the waiver agreement. White understood another citation would be written (Tr. 188-190).

13/ White had been told by his superior that the 24 hour notice requirement was directed to the international safety representatives. He interpreted that his instruction related to notice under the collective bargaining agreement (Tr. 196).